

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:)	<u>Group Art Unit: 2625</u>
)	
Young Su LEE)	<u>Examiner: S. Azarian</u>
)	
Serial Number: 09/657,573)	<i>Attorney Docket: LEEY3016beu</i>
)	
Filed: September 8, 2000)	<u>Confirmation No.: 2704</u>

For: Motion Estimator Architecture For Low Bit Rate Image Communication

**DECLARATION OF MR. BENJAMIN E. URCIA IN SUPPORT OF
PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)**

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

I, Benjamin Edward Urcia, whose address is 902 N. Greenbrier St., Arlington, VA., 22205, hereby declare that:

1. I am a partner in the firm BACON & THOMAS, PLLC., and was responsible for prosecution of the above-identified application at the time the application became abandoned for failure to pay the issue fee.
2. The above-identified application was permitted to lapse on March 10, 2004, because I had not, as of March 10, 2004, received any instructions to pay the issue fee.
3. The March 10, 2004 instruction letter, together with reminder letters sent on March 9, 2009, is attached hereto as Exhibit A. A date stamp on the March 10, 2004 instruction letter shows that the letter was received in the mail room of Bacon & Thomas on March 10, 2004. However, no acknowledgment was made until March 15, 2004, as indicated by the copy of the instructions in Exhibit A. It is not known why the March 10 instruction letter was not provided to me on March 10, 2009. However, I did not receive,

and had no knowledge of the March 10, 2004 instructions to pay the issue fee. In the absence of instructions to pay an issue fee, my usual practice is not to pay the issue fee unless the client has previously indicated that the fee should be paid in the absence of instructions. If instructions to pay the issue fee had been received by me, I would have paid it.

4. After receiving the copy of the issue fee payment instructions on or subsequent to March 15, 2008, I prepared a letter to the Korean agent, Mr. Jongil Lee, asking whether he wished to file a petition to revive. The letter was faxed on March 23, 2009. A copy of the March 23 letter and fax confirmation is attached as Exhibit B. The reason I sent the March 23, 2009 letter was that I wished to obtain confirmation that Mr. Lee wished to revive the application. Although Mr. Lee's letter of March 10, 2009 shows that he clearly wished to pay the issue fee, it was my practice to obtain confirmation before incurring significant additional expenses, which in this instance involved the \$735 government fee for the petition to revive and a service fee of \$250. In other words, while it was clear that Mr. Lee intended to pay the issue fee, it was not clear that Mr. Lee wished to incur the additional expenses involved in reviving the application, which is why the petition to revive was not filed at this time, and the March 23, 2004 letter was sent instead.
5. In the absence of a reply to the March 23, 2004 letter, I took no further action with respect to this application until receiving Mr. Lee's letter of April 30, 2008, attached hereto as Exhibit C. After retrieving the file, I sent a letter to Mr. Lee on May 30, 2008, informing Mr. Lee that the application had become abandoned. The May 30, 2008 letter is attached hereto as Exhibit D.
6. Mr. Lee sent instructions to revive the application on June 2, 2009. Attached as Exhibit E is a communication sent to Mr. Lee on June 5, 2008, forwarding an advance invoice for filing the Petition to Revive (which was pasted over Mr. Lee's fax of June 2, 2009,

which in turn was hand-written on a copy of my letter of May 30, 2009--see the June 2 date stamp at the top of the fax, and Mr. Lee's hand-written note at the bottom of the fax). The petition to revive was submitted on August 12, 2008.

7. Subsequent to receiving the Decision on Petition dated July 31, 2009, I discovered an additional letter dated July 15, 2005, from Mr. George Chen of Bacon & Thomas, PLLC, asking whether Mr. Lee wished to revive the application. This letter is attached as Exhibit F. The July 15, 2005 letter refers to a letter dated June 17, 2005, but no record of a June 17, 2004, letter has been found. Instead, the June 17 date appears to represent a typographic error, and that the reference should have been to the March 23, 2004, letter. Mr. Chen is a patent agent with Bacon & Thomas who speaks Japanese and Chinese and often handles client relations with Far East clients.
8. The July 15, 2005, letter shows that we were still awaiting instructions to revive the application on July 15, 2005. The sole reason for not reviving the application before receiving Mr. Lee's instructions to revive was the lack of instructions from Mr. Lee indicating whether or not he wished to revive the application.
9. In the absence of any acknowledgment of the July 15, 2005 letter, no further action was taken until April 30, 2008, as described above.
10. In summary, the reason for my failure to take action to revive the application during the entire period from March 11, 2004 to submission of the petition to revive on August 12, 2008, was the failure to receive instructions to pay the issue fee until March 15, 2009, and the subsequent lack of instructions from Mr. Jongil Lee, the Korean agent for the assignee, on whether to revive of the application, despite having sent issue fee payment reminders as late as March 9, 2009, and letters asking whether to file a petition on March 23, 2004 (Exhibit B) and July 15, 2005 (Exhibit F). In the absence of a response to the

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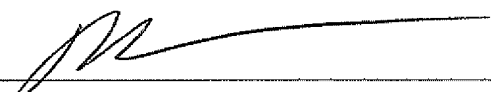
latter two letters, it was not known whether the Applicant desired to attempt a revival, and therefore no petition was filed.

11. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that willful false statements and the like so made are punishable by fine or imprisonment or both, under §1001 of Title 18 of the United States code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

November 30, 2009

Date



Mr. Benjamin E. Urcia, Reg. No. 33,805